

OFFICE OF THE CLERK OF COURT
UNITED STATES DISTRICT COURT
Northern District of California
United States Courthouse
450 Golden Gate Avenue
San Francisco, California 94102

<http://www.cand.uscourts.gov>

Notice of Participation in Pilot Project on Electronic Availability of
Transcripts of Criminal Proceedings

Pursuant to General Order No. 59, this Court is participating in a pilot project regarding the electronic availability of transcripts of criminal proceedings. Such participation means that this court will follow the attached United States Judicial Conference policy on *Electronic Availability of Transcripts of Court Proceedings* before making official transcripts of court proceedings in criminal cases electronically available to the public. The pilot project will apply to all transcripts of criminal proceedings or parts of criminal proceedings requested from an official court reporter **from February 27, 2006 through August 25, 2006**, regardless of when the proceeding took place. Please read this policy carefully.

The policy establishes a procedure for counsel to request the redaction from the transcript of specific personal data identifiers before the transcript is made electronically available to the general public. A party must file a Notice of Intent to Request Redaction of Transcript within five business days of the filing of the official transcript by the court reporter. The court-approved form is available on the Forms-Miscellaneous page of the Court's Internet site: <http://www.cand.uscourts.gov>. If a party fails to request redaction within this time frame, the transcript may be made electronically available without redaction. A copy of the officially filed transcript will be transmitted to each party, subject to the limited access provision of the General Order, during this five-day period.

If a party files a redaction notice, the transcript will not be made remotely electronically available to the general public until the redactions are performed. Within 21 calendar days from the filing of the transcript with the clerk, or longer if ordered by the Court, the parties must submit directly to the court reporter a statement indicating where the personal identifiers appear in the transcript by page and line and how they are to be redacted. For example, if a party wanted to redact the Social Security number 123-45-6789 appearing on page 12, line 9 of the transcript, the statement would read: "Redact the Social Security number on page 12, line 9 to read xxx-xx-6789." A party is only responsible for reviewing and indicating the redactions in the testimony of the witnesses it called and its own statements (e.g. opening statements and closing arguments). Only the personal identifiers listed in the Judicial Conference Policy on the Electronic Availability of Transcripts may be automatically redacted. If a party wants to redact other information, that party should move the Court for further redaction by motion served on all parties and the court reporter within the 21-day period. Counsel appointed pursuant to the Criminal Justice Act may claim compensation, at the applicable rate, for the time spent reviewing the transcript and preparing the request for redaction, as well as for costs associated with obtaining a copy of the transcript.

Please direct all questions concerning the Court's participation in this pilot project to David Weir, Courtroom Services Supervisor, at 415-522-2152, or by e-mail at David_Weir@cand.uscourts.gov.

Attachments:

General Order No. 59

U.S. Judicial Conference Policy on *Electronic Availability of Transcripts of Court Proceedings*

GENERAL ORDER No 59
PILOT PROJECT FOR THE ELECTRONIC AVAILABILITY
OF TRANSCRIPTS OF COURT PROCEEDINGS

Upon the request of and subject to a policy adopted by the Judicial Conference of the United States (the "Conference") on September 20, 2005, the Northern District of California (the "Court") shall participate in a pilot project regarding the electronic availability of transcripts. The pilot project shall be applicable to all transcripts of proceedings in criminal cases or parts of proceedings in criminal cases ordered from an official court reporter on or after February 27, 2006, regardless of when the proceeding took place. The policy, as delineated below, establishes a procedure for counsel to request the redaction from the transcript of specific personal data identifiers before the transcript is made electronically available to the general public. The personal identifiers that must be redacted are as follows: Social Security numbers; financial account numbers; names of minor children; dates of birth; and, home addresses of individuals.

1. Any transcript of a proceeding in a criminal case ordered from an official court reporter on or after February 27, 2006 in a case designated for electronic case filing, pursuant to General Order No 45, shall be electronically filed by the reporter through the Court's Case Management/Electronic Case Files (CM/ECF) system. The Clerk shall provide to all parties electronic notice of the filing and of the redaction requirements, and shall ensure that electronic access to such transcript will be limited to the Court, the Clerk of Court or his designees, the parties to the action and to users of the public access terminals in the Clerk's Office. Within five business days of the filing by the court reporter of an official transcript, a party must file a Notice of Intent to Request Redaction for any transcript in need of such redaction on the court-approved form, attached hereto as Exhibit 1 and available on the forms page of the Court's Internet site: <http://cand.uscourts.gov>. The Clerk shall provide the court reporter with a copy of the filed form. If any party fails to request redaction within five business days, the Clerk shall make the transcript electronically available to the general public without redaction through the CM/ECF system, unless the court, for good cause related to the application of Conference policy on privacy and public access to electronic case files, directs that the transcript should not be available electronically for up to a period of 60 days.

2. If a party files a Notice of Intent to Request Redaction, the transcript shall not be electronically available to the general public until the redactions are performed. During this time, a copy of the officially filed transcript will be available for review by the parties through the CM/ECF system and may also be purchased by the general public from the Clerk's Office or the court reporter. Within 21 calendar days from the filing of the transcript with the Clerk, or longer if ordered by the Court, the parties must submit directly to the court reporter a statement indicating where the personal identifiers appear in the transcript by page and line and how they are to be redacted. For example, if a party wanted to redact the Social Security number 123-45-6789 appearing on page 12, line 9 of the transcript, the statement would read: "Redact the Social Security number on page 12, line 9 to read xxx-xx-6789." A party is only responsible for reviewing and indicating the redactions in the testimony of the witnesses it called and its own statements (e.g., opening statements and closing arguments). Only the personal identifiers listed above may be automatically redacted by the court reporter. If a party wants other information redacted from the transcript, that party must move the Court for further redaction by noticed motion served on all parties and the court reporter within the 21-day period. Any order of redaction must be provided by the Clerk to the court reporter. Counsel appointed pursuant to the Criminal Justice Act may claim compensation, at the applicable rate, for the time spent reviewing the transcript and preparing the request for redaction, as well as for costs associated with obtaining a copy of the transcript.

3. If a transcript is redacted by the court reporter pursuant to this General Order, the following certification shall be used: "I certify that the foregoing is a correct transcript from the record of the proceedings in the above-entitled matter, as amended by the redaction of certain personal identifiers at the request of the parties [and by the Court]."

4. To minimize the need for redaction of a transcript, counsel are admonished to minimize their use of unnecessary personal identifiers at any proceeding at which a record is being taken.

5. Nothing in this order or Conference policy is intended to create a private right of action against a court reporter for any failure to redact the required information or for any errors associated with such redaction. This order and Conference policy do not affect in any way the obligation of the court reporter to file promptly with the Clerk of Court the court reporter's original records of a proceeding or the inclusion of a filed transcript with the records of the court pursuant to Title 28 U.S.C. § 753, nor do they affect the obligation of the Clerk to make the official transcript included in the court file available for copying by the public without further compensation to the court reporter. During this pilot program the court reporter shall not be compensated for copies of redacted transcripts, nor for unredacted transcripts filed after the redaction period has run, retrieved by any party or the general public through the CM/ECF system. The court reporter shall continue to be compensated, however, for any transcripts provided directly by the court reporter to counsel or any member of the public at the per page rates previously established by the Conference.

ADOPTED: February 15, 2006

FOR THE COURT:

S/_____
Vaughn R Walker
United States District Chief Judge

Exhibit 1

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

_____ ,)	
)	
Plaintiff(s),)	Case No. _____
)	
vs.)	<u>NOTICE OF INTENT TO REQUEST</u>
)	<u>REDACTION OF TRANSCRIPT</u>
_____ ,)	
)	
Defendant(s).)	

Notice is hereby given that a statement of redaction will be submitted to the court reporter within 21 days from the filing of the transcript with the Clerk of Court. The proceeding occurred on _____ and was reported by _____, the official court reporter.

Attorney for (Plaintiff or Defendant)
Address: _____

Date: _____

**United States Judicial Conference Policy on
Electronic Availability of Transcripts of Court Proceedings
September 20, 2005**

Courts making electronic documents remotely available to the public, whether documents are filed electronically or converted to electronic form, shall make electronic transcripts of proceedings remotely available to the public if such transcripts are otherwise prepared.

Within five business days of the filing by the court reporter/transcriber of the official transcript with the clerk's office pursuant to 28 U.S.C. § 753, each party shall inform the court, by filing a notice of redaction with the clerk, of the party's intent to redact personal data identifiers from the electronic transcript of the court proceeding. Such personal data identifiers include: Social Security numbers; financial account numbers; names of minor children; dates of birth; and home addresses of individuals. The filing of this notice triggers the procedures set out below. If no such notice is filed within the allotted time, the court will assume redaction of personal data identifiers from the transcript is not necessary, and the transcript may be made electronically available at the close of the fifth business day, unless the court, for good cause related to the application of the Judicial Conference policy on privacy and public access to electronic case files, finds that the transcript should not be available electronically for up to a period of 60 days.

If a notice of redaction is filed by any party, following the filing of the official transcript with the clerk's office, the official transcript is not to be made remotely electronically available to the general public. Within 21 calendar days of the filing of the transcript, or longer if the court so orders, the parties shall submit to the court reporter/transcriber a statement indicating where the following personal data identifiers appear in the transcript: Social Security numbers; financial account numbers; names of minor children; dates of birth; and home addresses of individuals.

The court reporter/transcriber shall partially redact these personal data identifiers from the electronic transcript as follows:

- Social Security numbers to the last four digits;
- financial account numbers to the last four digits;
- dates of birth to the year;
- names of minor children to the initials; and
- home addresses to the city and state.

During the 21-day period, or longer if the court so orders, attorneys may move the court for any additional redactions to the transcript. The transcript shall not be electronically disseminated until the court has ruled upon any such motion.

The Director of the Administrative Office may lengthen the period of time for electronic filing of a transcript when, in the Director's judgment, a district justifies such an extension.

POLICY NOTE

This policy is intended to apply to electronic transcripts, whether originally filed in electronic form or converted from hard copy to electronic form. It applies to electronic transcripts made available via CM/ECF, WEBPACER, PACER, RACER or a non-court related electronic depository (e.g., Exemplaris). It does not affect in any way the obligation of the court reporter/transcriber to file promptly with the clerk of court the court reporter's/transcriber's original records of a proceeding or the inclusion of a filed transcript with the records of the court pursuant to 28 U.S.C. § 753. This policy does not affect the obligation of the clerk to make the official transcript included in the court file available for copying by the public without further compensation to the court reporter/transcriber pursuant to Judicial Conference policy.

If a party desires to respond to any notice of redaction or motion for additional redaction, the court may establish a briefing schedule to provide sufficient time for such response.

Nothing in this policy is intended to create a private right of action against court reporters/transcribers for any failure to redact the required information or for any errors associated with such redaction.

It is not the intent of this policy to affect court reporter/transcriber compensation in any way.

This policy is intended to deal with the Judicial Conference policy on privacy and public access to electronic case files as it applies to the electronic filing of transcripts. It is not intended to change any rules or policies with respect to sealing or redaction of court records for any other purpose.

This policy does not prevent the production of a transcript on an expedited basis for a party, or any other person or entity, that may order such a transcript, subject to whatever court rules are currently imposed to protect sealed materials. Any non party that orders a transcript on an expedited basis should be alerted to the Judicial Conference policy on privacy and public access to electronic case files.